

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHARLES R. MILLER,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. <u>CIV-18-572-SLP</u>
	§	
USAA CASUALTY INSURANCE	§	<i>(Removed from the District Court of</i>
COMPANY, a company doing business in	§	<i>Kay County, State of Oklahoma,</i>
the State of Oklahoma	§	<i>Case No. CJ-2018-70)</i>
	§	
Defendant.	§	

**DEFENDANT USAA CASUALTY INSURANCE COMPANY’S  
NOTICE OF REMOVAL**

Defendant USAA Casualty Insurance Company (“USAA CIC”), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removes the above-captioned action pending in the District Court of Kay County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma. The grounds for removal are as follows:

1. Plaintiff commenced this action entitled *Charles R. Miller v. USAA Casualty Insurance Company*, Case No. CJ-2018-70 (the “Action”), by filing Plaintiff’s Petition in the District Court of Kay County, State of Oklahoma (the “Petition”), on April 4, 2018. *See* Ex. 1.

2. The Petition asserts claims against USAA CIC for alleged breach of contract and bad faith. *See* Ex. 1, ¶¶ 3, 8. Plaintiff seeks damages in an amount in excess of \$75,000, exclusive of attorneys’ fees, costs, and interest. Ex. 1, ¶ 10 and “Wherefore” paragraph on page 3.

3. The Petition, Summons and Proof of Service in the Action are attached as Exhibits 1, 2 and 3, respectively. A copy of the Docket Sheet, Case No. CJ-2018-70, District Court of Kay County, State of Oklahoma, is attached as Exhibit 4. USAA CIC is unaware of the existence of any process, pleadings, or orders other than the documents included in Exhibits 1-3. Moreover, there are no motions pending before the Kay County District Court in this matter, nor are any hearings currently set.

4. As set forth more fully below, this case is properly removed to this Court under 28 U.S.C. §§ 1332, 1441, and 1446 because USAA CIC has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction under 28 U.S.C. § 1332.

**I. USAA CIC has satisfied the procedural requirements for removal.**

5. USAA CIC was served with the Petition on May 23, 2018, through the transmittal of service through CSC. *See* Ex. 3, CSC Notice of Service of Process. Therefore, this removal is timely filed under 28 U.S.C. § 1446(b).

6. Under 28 U.S.C. § 1446(a), the United States District Court for the Western District of Oklahoma is the appropriate court for filing this Notice of Removal from the District Court of Kay County, Oklahoma, where the Action was pending. *See* 28 U.S.C. § 116(c).

7. Venue is proper under 28 U.S.C. §§ 1441(a) and 1391(b).

**II. Removal is proper because this Court has subject matter jurisdiction under 28 U.S.C. § 1332.**

8. This Court has original jurisdiction over this action under the diversity of citizenship provision contained in 28 U.S.C. § 1332(a) because this is a civil action (A) where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and (B) that is between citizens of different states. Thus, the Action may be removed to this Court by USAA CIC pursuant to 28 U.S.C. § 1441(a).

**A. The amount in controversy requirement is satisfied.**

9. It is apparent from the face of the Petition that Plaintiff seeks recovery of an amount in excess of \$75,000, exclusive of interest and costs. Ex. 1, Pet. ¶ 10 and “Wherefore” paragraph on page 3 (“Plaintiff demands judgment against the Defendant for damages for breach of contract in the amount of \$12,990.40, an amount in excess of \$75,000.00 for bad faith along with punitive damages, plus court costs and attorney fees . . . .”).

10. The assertions regarding damages in the Petition are sufficient to demonstrate that the amount in controversy requirement for diversity jurisdiction has been met. 28 U.S.C. § 1446(c)(2).

**B. Complete diversity of citizenship exists between Plaintiff and USAA CIC.**

11. USAA CIC is incorporated in Texas with its principal place of business in San Antonio, Texas. For purposes of determining diversity jurisdiction, USAA CIC is a citizen of Texas.

12. Upon information and belief, Plaintiff resides in Ponca City, Oklahoma, holds an Oklahoma driver's license, and is registered to vote in Oklahoma. Upon information and belief, Plaintiff is a citizen of Oklahoma.

13. USAA CIC reserves the right to amend or supplement this Notice of Removal.

14. USAA CIC reserves all defenses, including, without limitation, those set forth in Fed. R. Civ. P. 12(b). USAA CIC will file a responsive pleading in the time frame permitted under Fed. R. Civ. 81(c)(2)(C), or as further extended by the Court.

15. Written notice of the filing of this Notice of Removal will be given to Plaintiff and the state court promptly after the filing of the Notice of Removal pursuant to 28 U.S.C. § 1446(d).

Therefore, USAA CIC removes this Action to this Court under 28 U.S.C. §§ 1332, 1441, and 1446, and invokes this Court's jurisdiction.

Respectfully submitted,

s/ Jodi W. Dishman  
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***Attorneys for USAA Casualty Insurance Company***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of June, 2018, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following registrants:

C. Scott Loftis  
Loftis Law Firm  
114 N. 3<sup>rd</sup> Street  
Ponca City, OK 74601  
***Attorneys for Plaintiff Charles R. Miller***

Additionally, I hereby certify that a true and correct copy of the above and foregoing was sent by U.S. Postal Service this 12th day of June, 2018, to:

C. Scott Loftis  
Loftis Law Firm  
114 N. 3<sup>rd</sup> Street  
Ponca City, OK 74601  
***Attorneys for Plaintiff Charles R. Miller***

s/ Jodi W. Dishman

Jodi W. Dishman